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## HB 1595 RELATING TO ENVIRONMENTAL QUALITY COMMISSION AND ENVIRONMENTAL IMPACT STATEMENTS

Statement for  
House Committee on  
Energy, Ecology and Environmental Protection  
Public Hearing - 6 March 1981

By  
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HB 1595 would delete the requirement for the Environmental Quality Commission (EQC) to make regulations for the State Environmental Impact Statement (EIS) system and adds a requirement for administrative appeal to EQC for determinations made by agencies on whether an EIS is or is not required. Our statement on HB 1595 does not represent an institutional position of the University of Hawaii.

The dropping of the regulation requirement may or may not be significant depending on the definition. If the Rules are the same as Regulations, in the sense of Chapter 343, then the deletion of that requirement simply means that the law is being purged of a redundancy. If both Rule and Regulation have specific and different meanings such as "Rule" meaning the Rules of Practice and Procedure while Regulation only referring to the EQC Regulations, then the deletion of the regulation portion of 343-b does not seem reasonable. If EQC is stripped of the responsibility for making, amending or repealing regulations with regard to the EIS system, there is no provision for other agency or commission involvement.

The second part of the bill calling for an administrative appeal to EQC was suggested by the Environmental Center in its 1978 report to OEQC on the Hawaii State EIS System. The Center reasoned, in this report, that if an applicant can appeal a determination as to the acceptability of his/her EIS (Section 343-6) "it is entirely consistent that the applicant be entitled to appeal to the EQC on a determination whether an EIS is necessary or not." If the applicant has the right to appeal this type of determination then aggrieved parties should also have recourse to administrative appeal.

The authors of the Environmental Center report pointed out that the only recourse for those wishing to challenge a determination that an EIS is or is not required, is in the courts. This is an expensive and time-consuming process. In effect it may cause those who wish to challenge the appropriateness of this type of determination to not challenge thereby allowing an inadequate document to stand. By having a requirement for administrative appeal it would allow those people who are affected by the project (both applicant and concerned parties), and who do not have the funds for a court challenge, to challenge the adequacy of a Negative Declaration or EIS preparation notice thereby giving them greater access to the EIS system. The added attention the process would receive could also prevent court cases from arising over the question of Negative Declaration and preparation notices.